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By Electronic Mail

June 19, 2018

Dara A. Olds
Assistant United States Attorney
U.S. Attorney's Office - Eastern District of New York
271 Cadman Plaza East
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**Re: *Amadei et al. v. Nielsen et al.*, No. 17 Civ. 5967
(NGG)(VMS)**

Dear Dara:

We have received your June 14 letter providing names of seven CBP custodians “who may have non-privileged documents responsive to Plaintiffs’ Request for Production No. 16.”

While we appreciate Defendants’ efforts to identify appropriate custodians, Plaintiffs believe the proposed list is insufficient. Although Request for Production No. 16 requests “[a]ll documents concerning communications between you and *any other person* about this Action, the subject matter of this Action, or any allegations in the Complaint,” (emphasis added), none of the persons identified is employed at CBP headquarters or in the New York regional office; instead, each appears to be employed at JFK airport. Most notably, several of the defendants likely to have discoverable information, such as the Acting Commissioner of CBP, Kevin McAleenan, are thus excluded.

To the extent that Defendants have not proposed custodians outside of JFK airport based on Magistrate Scanlon’s discovery rulings, Plaintiffs do not believe that it is appropriate. At the May 1, 2018 discovery conference and in her resulting Order (ECF No. 37), Judge Scanlon ruled that, at this time, she would not compel discovery of CBP and ICE policies and general practices outside the New York region absent a more specific application; she did not limit discovery of responsive documents relating to the February 22, 2017 incident at issue in this case to those located at JFK.

Plaintiffs therefore request that, not later than Friday, June 22, Defendants (1) confirm that they have searched or will search the custodial documents of the seven persons named in their June 14 letter and (2) provide names of CBP custodians at headquarters and the New York field office whose documents Defendants will search in response to Plaintiffs’ RFP No. 16.

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Sincerely,

s/ Joshua B. Picker
Joshua B. Picker